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RECENT LEGAL LITERATURE

HANDBOOK OF THE LAW OF EVIDENCE. Second Edition, Revised. By John Jay McKelvey, A.M., LL.B., of the New York Bar. St. Paul: West Publishing Company, 1907, pp. xvii, 540.

The first edition of this work, published in 1897, readily took its place as one of the best, if not the best, of the smaller works presenting in brief form a modern treatment of the law of evidence. Making no pretention that his is an exhaustive treatment, such as is Professor Wigmore's great work for example, the author aspires only to "restate the principles of the law of evidence in a manner easy of comprehension for the student, and, for the practitioner, easy of application."

The second edition is not, in its general plan and method of treatment of the subject, very different from the first. The author disclaims again any attempt to extend the citation of cases or to do more than to "give a statement of principles with illustrations of their application, and some discussion of the manner of their development." "The work will therefore," he says, "serve better one who seeks light upon the law of evidence viewed as a science than one who seeks a precedent for some particular case."

This statement well suggests the character of the work. It leans to the theoretical and scientific, rather than to the merely practical side.

The most notable modification of the matter of the former edition may be found in the chapter on "Judicial Notice," which has been rewritten. There is evidence in this chapter that the problem of judicial notice is not without its difficulties. The idea that a court may take judicial notice of a fact which has no existence will always suggest trouble. The conception that the doctrine of judicial notice is both "mandatory and permissive" is more easily stated than established from decided cases. The question of whether a litigant has the right to insist that the court shall take notice of a fact within the class of facts to which the doctrine of judicial notice is applicable, can scarcely be said to be satisfactorily settled in the negative by the author's discussion.

Few books are so well made that some one may not be found who is willing to question each in some particular, and it must be said that a better general discussion of the whole law of evidence in five hundred pages can scarcely be found today than this second edition of McKelvey's Evidence.

V. H. L.

A SUPPLEMENT TO A TREATISE ON THE SYSTEM OF EVIDENCE IN TRIALS AT COMMON LAW, CONTAINING THE STATUTES AND JUDICIAL DECISIONS. 1904-1907. By John Henry Wigmore. Boston: Little, Brown & Company, 1908, pp. xiii, 459.

The profession were scarcely prepared for the announcement that there was so soon to be added a fifth volume to the four volumes published about three years ago on the Law of Evidence, under Professor Wigmore's authorship.